

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

EDWARD R.L. ALEXANDER,

Plaintiff,

-against-

9:04-CV-1298
(LEK/GJD)

W. WHITNEY; SGT. MITCHELL; RICHARD LAUX;
CRAIG GUMMERSON

Defendants.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation filed on March 17, 2008 by the Honorable Gustave J. DiBianco, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3 of the Northern District of New York. Report-Rec. (Dkt. No. 56). After ten days from the service thereof, the Clerk has sent the entire file to the undersigned, including the objections by Plaintiff, which were filed on March 26, 2008. Objections (Dkt. No. 57).

It is the duty of this Court to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b). “A [district] judge... may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.* This Court has considered the objections and has undertaken a de novo review of the record and has determined that the Report-Recommendation should be approved for the reasons stated therein.¹

¹The Court notes the updated Second Circuit standard for showing the personal involvement of a supervisory defendant as established in Colon v. Coughlin, 58 F.3d 865, 873 (2d Cir. 1995). Applying the current standard in its review, the Court still adopts the Report-Recommendation.

Accordingly, it is hereby

ORDERED, that the Report-Recommendation (Dkt. No. 56) is **APPROVED** and
ADOPTED in its **ENTIRETY**; and it is further

ORDERED, that Defendants' Motion for summary judgment (Dkt. N. 51) is **DENIED**
ONLY AS TO THE CLAIM OF RETALIATION AS AGAINST DEFENDANT WHITNEY;
and it is further

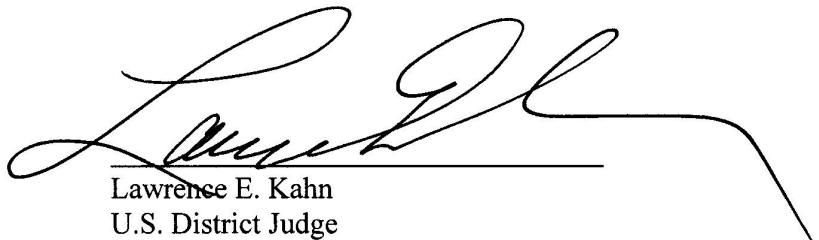
ORDERED, that Defendants' Motion for summary judgment (Dkt. No. 51) is **GRANTED**
IN ALL OTHER RESPECTS; and it is further

ORDERED, that the Amended Complaint (Dkt. No. 43) is **DISMISSED IN ITS**
ENTIRETY AS TO DEFENDANTS LAUX, MITCHELL, AND GUMMERSON; and it is
further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: March 31, 2008
Albany, New York



Lawrence E. Kahn
U.S. District Judge